IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.T.SANKARAN

WEDNESDAY, THE 21ST MARCH 2007 / 30TH PHALGUNA 1928

WP(C).No. 16958 of 2006(R)

PETITIONERS:

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1. SUDHIR VARMA.R. 93.C/XXVII
   KAIRALI HOUSE, KANNANKULANGARA,
   TRIPUNITHURA P.O.

2. JOHN.A. 318/XXIV,
   ASWATHY HOUSE, EDAMPADAM ROAD,
   TRIPUNITHURA P.O.

3. K.SIVASANKARAN, 90/XXVII,
   KUTTIKKATTU HOUSE, KANNANKULANGARA,
   TRIPUNITHURA P.O.

4. K.M.XAVIER, KALLARAKKAL HOUSE,
   NADAKKAVU P.O. UDAYAMPEROOR.

5. P.RAVI VARMA, 93/XXVII,
   KAIRALI HOUSE,KANNANKULANGARA, TRIPUNITHURA.P.O.

   BY ADV. SRI. JOHNSON MANAYANI

RESPONDENTS:

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1. GOKULAMM ENGINEERS INDIA (P)LTD.,
   ANJAM APARTMENTS, 57/1795,
   CHITTOOR ROAD, COCHIN 11,
   REPRESETNED BY ITS MANAGER.

2. THE SECRETARY TO PUBLIC WORKS DEPARTMENT, SECRETARIAT, THIRUVANANTHAPURAM.

3. THE SECRETARY TO REVENUE DEPARTMENT, SECRETARIAT, TRIVANDRUM.

4. THE CHIEF TECHNICAL EXAMINER, INSPECTION AND TECHNICAL WING, SECRETARIAT, TRIVANDRUM.

5. STATE OF KERALA, REP.BY ITS SECRETARY TO P.W.D. SECRETARIAT, TRIVANDRUM.

6. THE SPECIAL TAHSILDAR (LA), GENERAL , COLLECTORATE, ERNAKULAM.

BY GOVERNMENT PLEADER ADV. SHRI BENNY VARGHESE.
BY ADDL.ADVOCATE GENERAL

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 21/03/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WP(C).No. 16958 of 2006(R)

APPENDIX

PETITIONERS' EXHIBITS;

Ext. P1	:	TRUE COPY OF THE JUDGMENT IN W.P.(C) 21716 OF 2005 OF THIS HONOURABLE COURT.
Ext. P2	:	THE ROUGH SKETCH OF THE OLD IRON BRIDGE AND THE PROPOSED NEW BRIDGE AND ROAD AND THE PROPOSED NH BYEPASS.
Ext. P3	:	TRUE COPY OF THE PETITION DT. 16.11.2005 WITHOUT EXHIBITS.
Ext. P4	:	TRUE COPY OF THE JUDGMENT IN W.P.(C)35120 OF 2005 DT. 16.12.2005 OF THIS HONOURABLE COURT.
Ext. P5	:	TRUE COPY OF THE GAZETTE NOTIFICATION DT. 10.05.2006 FOR ACQUIRING LAND FOR CONSTRUCTING A NEW BRIDGE AT TRIPUNITHURA.
Ext. P6	:	TRUE COPY OF NOTIFICATION DATED 09.06.2006.
Ext. P7	:	TRUE COPY OF THE PAMPHLET PUBLISHED BY THE FIRST RESPONDENT.

RESPONDENTS' EXHIBITS:

Ext. R2(a)	:	TRUE COPY OF THE LETTER DTD. 15.10.2003 OF THE SUPERINTENDING ENGINEER.

Ext. R2(b)	:	TRUE COPY OF THE KEY MAP.
Ext. R2(c)	:	TRUE COPY OF THE JUDGMENT DATED 07.11.2005 IN W.P.(C) 21716 OF 2005
Ext. R2(d)	:	TRUE COPY OF THE G.O.(Rt)NO. 1178/05/PWD DATED 23..12.2005.
Ext. R2(e)	:	TRUE COPY OF THE G.O.(Rt)NO. 217/06/PWD DATED 01.03.2006.
Ext. R2(f)	:	PHOTOGRAPH COPY OF THE IRON BRIDGE.
Ext. R2(g)	:	PHOTOGRAPH COPY OF THE NEW BRIDGE.
Ext. R2(h)	:	COMPLETE PHOTOGRAPH OF THE SMALL BRIDGE.
Ext. R6(a)	:	TRUE COPY OF THE G.O.No. 1178/2005/ PWD DATED 23.12.2005.
Ext. R6(b)	:	TRUE COPY OF THE G.O.(Rt)NO. 217/2006/PWD 01.03.2006.
Ext. R6(c)	:	TRUE COPY OF THE PROCEEDINGS NO. LRC. 6-15902/2006 D.DIS. DT. 06.04.2006
Ext. R6(d)	:	TRUE COPY OF THE NEWSPAPER CUTTING OF MADYAMAM DAILY DATED 12.06.2006.

/true copy/

P.A. TO JUDGE

K.T. SANKARAN, J.

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W.P.(C) No. 16958 OF 2006

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Dated this the 21st March , 2007

J U D G M E N T

Writ Petition is filed for the following reliefs:

> *"i) Issue a writ of certiorari or any other appropriate writs, directions or orders quashing Ext. P5.*
>
> *ii) Issue a writ of mandamus or any other appropriate writs, directions or orders commanding the 4th respondent to enquire into the petitioner's Ext.P3 petition and to make a report with regard to the new bridge and road.*
>
> *Iii) Issue a writ of mandamus or any other appropriate writs, directions or orders commanding respondents 2 to 6 to refrain from making any acquisition for the new bridge and road in pursuance to Ext. P5 notification.*
>
> *iv) Issue such other orders as are deemed fit and proper in the circumstances of the case."*

2. As per Ext. P5 notification issued under the Land Acquisition Act, lands belonging to the petitioners along with other properties are sought to be acquired for the purpose of construction of a new bridge called

'Thattappillykattupuzha' bridge . Land acquisition proceedings were initiated earlier. But those proceedings were quashed as per the judgment in W.P.(C) 21716 of 2005 .

3. In this Writ Petition, an interim order was passed on 17.01.2007, which reads as follows:

> *"Learned counsel for the petitioners submits that the petitioners are prepared to surrender two shop rooms on the western side of the building, so that they could retain two shop rooms on the eastern side occupied by the second petitioner John and the fourth petitioner Xavier. He submits that acquisition could be confined in respect of the two shop rooms on the western side and that the two shop rooms on the eastern side could be left out of acquisition.*
>
> *Government Pleader seeks time to get instruction with regard to the submission made by the counsel for the petitioners.*
>
> *Post after two weeks."*

Thereafter on 14.02.2007, another order was passed, which reads as follows:

> *"On the basis of the order dated 17.01.2007 learned Government Pleader, on instruction, submitted that to the extent possible, the suggestions put forward by the petitioners could be considered and accepted. Learned counsel for the petitioners submits that let matters be clear so that the petitioners would know*

where they stand.

2. Government Pleader seeks time to get specific instruction as to what extent the property belonging to the petitioner could be salvaged and to file a statement clearly stating all the necessary and relevant facts.

Post along with W.P.(C) 18503 of 2006 on 14.03.2007."

4. An affidavit dated 12th March, 2007 sworn to by the Executive Engineer, PWD (Roads Division), Ernakulam is filed in the case wherein it is stated thus:

"It is submitted that in respect of two shops on the eastern side of the proposed acquisition, one shop at the extreme side can be exempted from the acquisition. The other shop adjacent to the above shop can be left out not less than 50%."

As per the averments in the affidavit dated 12th March, 2007, the shop room on the extreme eastern side in the possession of John, second petitioner in the Writ Petition, could be exempted from acquisition. As regards the shop in the possession of Xavier, fourth petitioner in the Writ Petition, the affidavit discloses that not less than 50% of the shop room

can be left out of acquisition. Learned counsel for the petitioner submits that if the proposed acquisition is limited upto 130 cms on the western side of the present proposal , the shop room in the possession of the 4th petitioner, Xavier can be salvaged. Learned Government Pleader submits that this matter will be looked into at the time of actual implementation of the work and to the extent possible, the interest of the 4th petitioner would be protected. This submission is recorded and Writ Petition is closed since no further reliefs are sought for by the petitioner.

K.T. SANKARAN,
JUDGE.

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